

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

STEPHEN W. BYERLY,)	CASE NO. 1:12 CV 1841
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	<u>ORDER OF TRANSFER</u>
WARDEN, Ross Correctional Institution,)	
)	
Respondent.)	

On July 13, 2012, petitioner Stephen W. Byerly filed this action for habeas corpus under 28 U.S.C. § 2254.¹ For the reasons stated below, this action must be transferred to the United States Court of Appeals for the Sixth Circuit.

A second or successive motion under section 2254 may not be filed without leave from the appropriate court of appeals. 28 U.S.C. § 2244(b)(3). This is at least the second petition filed by Byerly in this court challenging his 2002 convictions for aggravated murder, aggravated burglary, kidnapping, and violation of a protective order, with firearm specifications. A previous petition was dismissed with prejudice on October 13, 2005. *See Byerly v. Haviland*, N.D. Ohio Case No. 1:05 CV 1095.

Accordingly, pursuant to *In re Sims*, 111 F.3d 45 (6th Cir. 1997), this action is hereby

¹ The action was filed in the Southern District of Ohio, and transferred to this court on July 17, 2012.

transferred to the United States Court of Appeals for the Sixth Circuit.

IT IS SO ORDERED.

/s/*Dan Aaron Polster* 7/31/12

DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE